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Because of the close similarity between the two classes of cases, the rules governing actions for infringement of trademarks, although in great confusion, are applied to cases of unfair competition. *Fairbank Co. v. Windsor*, 118 Fed. 96. The English rule allows the plaintiff to elect between the damages he has sustained and the defendant's profits. *Lever v. Goodwin*, 36 Ch. D. 1. The early rule in this country gave the plaintiff such profits as he would have made. *Hostetter v. Vowinkle*, 1 Dill. (U. S.) 329. But later decisions give him the profits realized by the defendant. *Singer Mfg. Co. v. June Mfg. Co.*, 163 U. S. 169. And in some cases damages are added. *Hennessey v. Wilmerding-Loewe Co.*, 103 Fed. 90. Other courts have given the difference between the plaintiff's cost-price and the defendant's selling-price. *Champlin v. Stoddard*, 34 Hun (N. Y.) 109. The rule adopted in the principal case seems just. The defendant has diverted certain of the plaintiff's potential sales, which should be credited to the plaintiff *in toto*, since no equitable method of division is possible. And the plaintiff should recover what he would have made on such sales, rather than what the defendant has made; for he should neither profit by the defendant's economies of production nor suffer for the defendant's disadvantages.

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## BOOK REVIEWS.

**THE LAWS OF ENGLAND.** By the Right Honorable the Earl of Halsbury and other lawyers. London: Butterworth and Company; Philadelphia: Cro-marty Law Book Company.

Vol. V. Companies. pp. ccvi, 769, 50.

Vol. XI. Descent to Ecclesiastical Law. pp. clxxix, 829, 81.

Vol. XII. Education to Electric Lighting and Power. pp. cxxii, 648, 48.

Volume V is devoted entirely to company law, and forms a treatise of seven hundred and sixty-eight pages on that subject. After a general consideration of the nature and domicile of companies, the work considers briefly the history of company legislation; then follows an elaborate treatise on the Companies Act of 1908. Special companies, like banking, insurance, and public-service companies, are considered; as well as chartered companies, the livery companies of the city of London, quasi-corporations, and illegal companies; and a few pages are devoted to foreign companies. The table of cases cited must contain at least five thousand cases. The importance of this treatise is at once apparent; and to the commercial lawyer in our Eastern cities it will be exceedingly useful.

Volume XI contains a short article on Descent and Distribution; a discussion of Discovery, Inspection, and Interrogatories, under the English practice; an elaborate article on Distress; an article on Easements and Profits, which is the most interesting in the volume to an American lawyer; and an elaborate disquisition on Ecclesiastical law.

In Volume XII the articles on Education and Elections have comparatively little value for our bar; but the hundred pages devoted to Electric Lighting and Power are useful.

The quality of these articles seems to be maintained at a high level, and the work should be in every law library, public or private, which aims to contain more than the mere necessary tools of trade.

J. H. B.

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**DAY IN COURT.** By Francis L. Wellman. New York: The Macmillan Company. 1910. pp. 257.

In his prefatory note Mr. Wellman says of the *Day in Court*: "This is in no sense a law book. . . . The purpose of this book, therefore, is to give to the

general reader, and young men who desire to become successful advocates, some practical knowledge of the arts of great advocates in eliciting truth . . . Originally written without any idea of publication, these pages fall far short of being a scientific treatment of the subject and perhaps fortunately so, for otherwise they might be occasionally consulted but seldom read." That such is the purpose of this book is important for two reasons. First, the reader should not expect to find a scientific analysis of the complicated relation of the advocate who may ask questions and argue, to the witnesses who must answer, and to the court and jury who must judge. The purpose of the book is to teach by written experience, not by theory. Second, the general reader must not suppose that the career of the business or office lawyer is slighted. Such a career is simply outside the subject in hand. The book should be considered in its special field. The opening chapters concern the qualities of mind and body which a man should have to be fitted for the career of an advocate. These qualities are arranged clearly under the heads of physical endowments, mental endowments, and educational qualifications. Those qualities that are essential are distinguished from those that are merely desirable. The argument is pointed by illustrations from the careers of great advocates. Whether or not the young man will always quite agree with the author is not important; it is important that he will surely think about the subject. The later chapters of the book describe step by step the events in a case as it would be handled by a practitioner in New York, — the preparation, the selection of a jury, the opening, the direct and cross-examination, the handling of documents, and the summing-up. The fact that the scene is laid in New York hardly affects the general value of the description. The many details of the trial are not merely described so that the reader is made aware of the numerous advantages to be gained by special attention to separate points, but each detail is illustrated by specific instances, successful and unsuccessful, which serve to fix it in the memory. These same specific instances add a human quality to the book which not only makes it interesting to the prospective lawyer but also makes it a very readable volume for the general public. P. K.

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CONSULAR CASES AND OPINIONS. By Ellery C. Stowell. Washington: John Byrne and Company. 1909. pp. xxxvi, 811.

The duties of consuls are, in these days of expanding international trade and intercourse, of growing importance. A book such as Mr. Stowell has prepared is timely and useful. It has been demonstrated that not only law, but history and many other branches of human knowledge, may be taught and learned most effectively by the case system, when the cases are selected with knowledge and discrimination. So that, for use both by teachers in schools and colleges, and by the consuls themselves at their posts, a book such as this possesses value.

About three hundred and twenty-five cases in English and American courts are included in the collection; and some sixty-five opinions of Attorneys-General of the United States, from Bradford to Knox. Of the cases only brief extracts are given in most instances; and of some a summary by the editor is printed instead of extracts. To the opinions of the Attorneys-General (most of which are printed in full) headnotes have been added.

The indices with which the book is plentifully supplied are full, and well made. Everything has been done to make the matter in the book readily available. There is an alphabetical list of the cases, a chronological list, and a list arranged under the names of the judges who decided the cases. The Opinions of the Attorneys-General are indexed under the names of the Attorneys-General, arranged alphabetically. In addition to the foregoing, the book